



September 28, 1999

Lieutenant Brad Lancaster
Amarillo Police Department
200 S E 3rd
Amarillo Texas 79101-1515

OR99-2725

Dear Lieutenant Lancaster:

You have asked whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128816.

The Amarillo Police Department (the "department") received a request for records regarding offense report #99-74634. You assert that the requested information is excepted from disclosure based on section 552.108 of the Government Code. We have reviewed your claim and considered the documents you submitted.

We find, however, that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.¹ Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality statutes such as section 261.201 of the Family Code. Section 261.201(a) provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report;
and


¹The Attorney General will raise section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Because the requested information was developed during an investigation of suspected child neglect, the information is within the scope of section 261.201. We assume that the department has not adopted any rules that would permit access to the requested information. Given that assumption, the information is confidential pursuant to section 261.201 of the Family Code. *See* Open Records Decision No. 440 at 2 (1986) (predecessor statute). Accordingly, the department must withhold the requested information from disclosure under section 552.101 of the Government Code as information deemed confidential by law.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Rose-Michel Munguía
Assistant Attorney General
Open Records Division

RMM/nc

Ref.: ID# 128377

Encl. Submitted documents

cc: Ms. Christine Hale
1207 South Bunchman
Amarillo, Texas 79101
(w/o enclosures)

²We note, however, that if the Texas Department of Protective and Regulatory Services has created a file on this alleged abuse, the child's parent(s) may have the statutory right to review that file. *See* Fam. Code § 261.201(f).